

CERTIFIED COPY

J. O'TOOLE

**United States Court of Appeals
For the First Circuit**

No. 07-1071

UNITED STATES,

Appellee,

v.

NOEL NEFF,

Defendant - Appellant.

ORDER OF COURT

Entered: April 13, 2007
Pursuant to 1st Cir. R. 27.0(d)

Treating appellant's financial affidavit, with attached statement, as a motion to proceed on appeal in forma pauperis ("IFP"), we transmit said request to the district court for action in the first instance pursuant to Fed. R. App. P. 24(a)(1). Copies of the district court's ruling shall be forwarded to this court. The district court, if it denies the motion, is requested to state its reasons in writing. Fed. R. App. P. 24(a)(2). If appellant is not granted IFP status by the district court, he may file a motion to proceed IFP in this court, provided that he do so in accordance with Fed. R. App. P. 24(a)(5).

By the Court:

Richard Cushing Donovan, Clerk

MARGARET CARTER

By: _____
Chief Deputy Clerk.

CERTIFIED COPY -
HEREBY CERTIFY THIS DOCUMENT
IS A TRUE AND CORRECT COPY OF
THE ORIGINAL ON FILE IN MY OFFICE
AND IN MY LEGAL CUSTODY

FIRST CIRCUIT COURT OF APPEALS
BOSTON, MA

[Signature] Date: 4/13/07

[Cert. cc: Hon. George A. O'Toole, Jr. and Sarah A. Thornton, Clerk, U.S.D.C. of Massachusetts, cc: Mr. Neff, Ms. O'Reilly, Ms. Chaitowitz and Mr. Richardson]

**Affidavit to Accompany
Motion for Leave to Appeal in Forma Pauperis**

2007 APR 12 P 12:42

District Court No. 05-cr-10184 FILED IN CLERKS OFFICE
Appeal No. 07-1071 US COURT OF APPEALS
FOR THE FIRST CIRCUIT

UNITED STATES
Appellee,
v.
NOEL NEFF
Defendant, Appellant.

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: [Signature]

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: 4/8/07

My issues on appeal are:

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Self-employment	\$ <u>500</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Interest and dividends	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Gifts	\$ <u>75</u>	\$ <u>N/A</u>	\$ <u>100</u>	\$ <u>N/A</u>
Alimony	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Child support	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Unemployment payments	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Public-assistance (such as welfare)	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Other (specify): _____	\$ <u>0</u>	\$ <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Total Monthly income:	\$ <u>575</u>	\$ <u>N/A</u>	\$ <u>100</u>	\$ <u>N/A</u>

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions)

Employer	Address	Dates of Employment	Gross monthly pay
<u>WRC MEDIA</u>	<u>Stamford, CT</u>	<u>Feb. 2001 - July 2005</u>	<u>\$ 3,500</u>
<u>mysportsguru.com</u>	<u>Fairfield, CT</u>	<u>June 1999 - April 2000</u>	<u>\$ 4,200</u>
<u>St. Petersburg Times</u>	<u>St. Petersburg, FL</u>	<u>Nov. 1997 - June 1999</u>	<u>\$ 3,500</u>

3. List your spouses's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions) (not married)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A</u>	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4. How much cash do you and your spouse have? \$ 0

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
<u>Wachovia</u>	<u>Joint checking</u>	<u>< \$ 1,000</u>	<u>\$ N/A</u>
<u>—</u>	<u>—</u>	<u>\$ 0</u>	<u>\$ N/A</u>
<u>—</u>	<u>—</u>	<u>\$ 0</u>	<u>\$ N/A</u>

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

My caseworker is processing this request. I will forward the statement to your office when completed.

5. List the assets, and their values, which you or your spouse owns. Do not list clothing and ordinary household furnishings.

Home (Value)	Other real estate (Value)	Motor Vehicle #1 (Value)
<u>Mobile home (\$30,000)</u>	<u>N/A</u>	<u>Make & year: 1996 Saturn (\$1,800)</u>
<u>Squire Drive</u>		<u>Model: SL1</u>
<u>Gainesville, FL</u>		<u>Registration#: N/A</u>
Motor Vehicle #2 (Value)	Other assets (Value)	Other assets (Value)
<u>Make & year: 2003 Honda (\$5,000)</u>	<u>N/A</u>	<u>N/A</u>
<u>Model: Civic SI</u>		
<u>Registration#: N/A</u>		

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>N/A</u>		

7. State the persons who rely on you or your spouse for support. (NO DEPENDENTS)

Name	Relationship	Age
<u>N/A</u>		

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Spouse
Rent or home mortgage payment (include lot rented for mobile home)	\$ <u>600</u>	\$ <u>N/A</u>
Are any real estate taxes included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and Telephone)	\$ <u>100</u>	\$ <u>N/A</u>
Home maintenance (repairs and upkeep)	\$ <u>50</u>	\$ <u>N/A</u>
Food	\$ <u>0</u>	\$ <u>N/A</u>
Clothing	\$ <u>0</u>	\$ <u>N/A</u>
Laundry and dry-cleaning	\$ <u>0</u>	\$ <u>N/A</u>
Medical and dental expenses	\$ <u>0</u>	\$ <u>N/A</u>
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>0</u>	\$ <u>N/A</u>
Insurance (not deducted from wages or included in Mortgage payments)	\$ <u>0</u>	\$ <u>N/A</u>
Homeowner's or renter's	\$ <u>0</u>	\$ <u>N/A</u>
Life	\$ <u>80</u>	\$ <u>N/A</u>
Health	\$ <u>0</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>N/A</u>
Other: <u>N/A</u>	\$ <u>0</u>	\$ <u>N/A</u>
Taxes (not deducted from wages or included in Mortgage payments)(specify): _____	\$ <u>0</u>	\$ <u>N/A</u>
Installment payments	\$ <u>0</u>	\$ <u>N/A</u>
Motor Vehicle	\$ <u>0</u>	\$ <u>N/A</u>
Credit card (name): <u>Multiple accounts</u>	\$ <u>500*</u>	\$ <u>N/A</u>
Department store (name): _____	\$ <u>0</u>	\$ <u>N/A</u>
Other: <u>—</u>	\$ <u>0</u>	\$ <u>N/A</u>

* minimum payment total for 5 cards

Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u>N/A</u>
Regular expenses for operations of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ <u>N/A</u>
Other (specify): <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Total monthly expenses:	\$ <u>1,330.00</u>	\$ <u>N/A</u>

9. Do you expect any major changes to your monthly income or expenses in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form? ☒ Yes ☐ No

If yes, how much? \$ 37,500 * for trial preparation

If yes, state the attorney's name, address, and telephone number:

Francis L. O'Reilly
807 Ruane St.
Fairfield, CT 06824 (203) 319-0707

11. Have you paid — or will you be paying — anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? \$ —

If yes, state the person's name, address, and telephone number:

N/A

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

In order to pay my \$60,000 in pretrial attorney's fees (to two lawyers), I exhausted my \$83,000 retirement savings. I have no more resources to tap into to pay for my appeal. My credit-card debt exceeds \$45,000. My name remains on a joint-checking account of which less than \$1,000 of the balance is mine.

13. State the address of your legal residence.

I no longer have a permanent residence

Your daytime phone number: () N/A

Your age: 48 Your years of schooling: 16

[REDACTED]